

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
STEVEN GOLDSTEIN individually and on behalf of  
CONGREGATION BNEI MATISYAHU, and MEIR  
ORNSTEIN,

Plaintiffs,

*-against-*

KATHY HOCHUL, in her official capacity as Governor of the  
State of New York; LETITIA JAMES, in her official capacity  
as Attorney General of the State of New York; KEECHANT  
SEWELL, in her official capacity as Commissioner of the  
New York City Police Department; LOUIS FALCO, III, in his  
official capacity as Rockland County Sheriff; ERIC  
GONZALEZ, in his official capacity as the District Attorney  
of Kings County; and THOMAS WALSH, II, in his official  
capacity as the District Attorney of Rockland County,

Defendants.

**DECLARATION OF  
JOYCE LEE MALCOLM**

Index No: 22-CV-8300

-----X  
**JOYCE LEE MALCOLM**, declares under penalty of perjury that the following is true  
and correct:

1. I am over the age of eighteen (18) years of age, am competent to testify to the  
matters contained in this declaration, attest that the curriculum vitae annexed hereto is true and  
accurate, and testify based on my personal knowledge and information as if sworn as a witness  
before this Honorable Court.

2. In this case, I have read, *inter alia*, the plaintiffs' pleadings, their moving papers,  
defendants' memoranda of law (including the Declaration of Patrick Charles with exhibits), and I  
make this declaration to reply to the assertions raised in defendants' opposition papers and  
supporting materials, and to provide further support for plaintiffs' application for a preliminary  
injunction to enjoin the enforcement of New York Penal Law § 265.01-e(2)(c), the statute that

designates all “places of worship or religious observation” as “sensitive locations” in which the possession of a firearm is forbidden and punishable by arrest and felony prosecution. *Id.*

3. I have been retained by Benno & Associates, P.C., and The Law Offices of Cory Morris, attorneys for the plaintiffs herein, as an expert on constitutional and legal history, in particular the history of the Second Amendment, in the case of *Goldstein, et. al. v. Hochul, et. al.*, 22-CV-8300 (VSB).

### **Introduction**

4. The United States Supreme Court (“Supreme Court”), in *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. \_\_\_, 142 S. Ct. 2111(2022), struck down New York’s gun control laws that severely limited the ability of law-abiding citizens to bear a firearm outside the home. The majority opinion and concurrences clarified the meaning and extent of *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *McDonald v. City of Chicago*, 561 U.S. 742 (2010), providing guidance for evaluating the constitutionality of New York’s new prohibition against carrying firearms into “places of worship or religious observation.”

5. A careful reading of the Supreme Court decision in *Bruen* spells out the core right of individuals to self-defense both inside and outside the home which is consistent with our Nation’s historical tradition. Justice Thomas writes, “To justify its regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation.” *Bruen*, 142 S. Ct. at 2126.

6. The following analysis is based upon that Supreme Court guidance and the legislation dealing with firearms in places of worship in the years just before and after the ratification of the Second Amendment and the Fourteenth Amendment.

7. The Supreme Court’s *Bruen* ruling and the wealth of historical evidence leave no doubt that New York’s sweeping new prohibition against carrying firearms into “places of worship or religious observation” – dubbed by New York a “sensitive place” – is not part of this nation’s historical tradition, deprives law-abiding citizens of the right to keep and bear firearms for self-defense and therefore violates the U.S. Constitution’s Second Amendment.

8. The Justices in *Bruen* emphasized two key points necessary for evaluating the New York prohibition on carrying firearms into places of worship and religious observation: **First**, the burden “falls on respondents to show that New York’s proper-cause requirement is consistent with the Nation’s historical tradition of firearm regulation”; the burden is not on the citizens whose rights are infringed. *Id.* at 2135. **Second**, the Second Amendment was adopted in 1791, the Fourteenth Amendment in 1868. The Supreme Court insists historical evidence that long predates or postdates either time may not illuminate the scope of the right. *Id.* at 2136. In *Bruen*, Justice Thomas explains, “Constitutional rights are enshrined with the scope they were understood to have when the people adopted them,” *id.* at 2136 (quoting *Heller*, 554 U.S. at 634-35), and “to the extent later history contradicts what the text says, the text controls.” *Id.* at 2137

### **Background and Qualifications**

9. A copy of my curriculum vitae is annexed hereto as Exhibit 1.

10. I am an historian of constitutional and legal history and author of eight books and numerous articles in law reviews and scholarly journals. I focus on individual rights, the Second Amendment and war and law.

11. I received my B.A. in history from Barnard College, my M.A. and Ph.D in Early Modern Comparative History from Brandeis University, and held the Patrick Henry Chair in

Constitutional Law and the Second Amendment at Antonin Scalia Law School, George Mason University from 2013 until my retirement in 2020.

12. My book *To Keep and Bear Arms: The Origins of an Anglo-American Right* was published by Harvard University Press and was cited several times by the majority in *Heller* and *McDonald*. My book *Guns and Violence: The English Experience* was also published by Harvard University Press and tracks the right to be armed in England and the impact of gun controls.

13. I am a byer fellow of Robinson College, Cambridge University and had fellowships and awards from, among others, the James Madison Program in American Ideals and Institutions at Princeton, Harvard Law School, the National Endowment for the Humanities and Huntington Library. I am a member of the NEH National Council on the Humanities.

**The History of the Right to Carry Firearms in Places of Worship or Religious Observation**

14. There was no prohibition on carrying a firearm in places of worship around the time of the ratification of the Second Amendment. Instead, persons were often duty-bound to *bring* a firearm to church. The only statutes to the contrary prohibited carrying a firearm in a manner to terrify the people, in affray of the peace, as noted by the Justices in *Bruen*. 142 S. Ct. at 2120, 2142-43.

15. From the Middle Ages on, English subjects had a duty to keep and use weapons for a variety of peace-keeping tasks: their own self-defense, the defense of their families and property, to keep watch in their town, answer the “hue and cry” and participate in the militia.

16. With the passage of the English Bill of Rights in 1689 was there not just a duty, but a right to be armed. My book *To Keep and Bear Arms: The Origins of an Anglo-American Right*, tracks this transition.

17. Even before the duty to be armed became a right, a seventeenth-century English case, *Sir John Knight*, 87 Eng. Rep. 75 (K.B. 1686), addressed carrying arms in a place of worship. That case involved the use of the ancient Statute of Northampton, 2 Edw. 3.c.3 (1328), which prohibited “all persons from coming with force and arms before the King’s Justices, &c., and from going or riding armed in affray of peace.” This statute was already ancient in 1686 when King James II used it to charge Sir John Knight, a Bristol counselor, with walking about the streets armed with guns and going into the church of St. Michael, in Bristol, in the time of divine service, with a gun, to terrify the King’s subjects, *contra formam statuti*.

18. The Chief Justice of the King’s Bench in *Sir John Knight* noted “that the meaning of the statute of 2 Edw. 3.c.3, was to punish people who go armed to terrify the King’s subjects.” The jury acquitted Knight. The judge, surprised that the statute, which had “almost gone in *desuetudinem*,” might still be in use, recognized the “general connivance to Gentlemen to ride armed for their security.” Malcolm, *To Keep and Bear Arms*, pp. 104-105. As noted by Justice Thomas in *Bruen*, this right to publicly bear arms was passed 200 years before the birth of Shakespeare and more than 450 years before ratification of the United States Constitution. *Bruen*, 142 S. Ct. at 2139.

19. Serjeant William Hawkins, in *A Treatise of the Pleas of the Crown*, a system of the principal matters relating to that subject first published in 1716 (with the last of eight editions appearing in 1824), makes a similar point about the Statute of Northampton, writing that “no wearing of Arms is within the meaning of [the Statute of Northampton], unless it be accompanied with such Circumstances as are apt to terrify the people. 1 William Hawkins, *A Treatise of Pleas of the Crown* 136 (1724).

20. The English Bill of Rights of 1689 also included the right that “Subjects which are Protestants may have Armes for their defence Suitable to their condition and as allowed by Law.” While the English article was limited to Protestants, then some 90% of the population, by the late eighteenth-century the right was general. *See, e.g., Rex v. Gardner* (K.B. 1739) (“a gun is necessary for defence of a house, or for a farmer to shoot crows”).

21. In *Rex v. Dewhurst*, 1 State Trials, N.S. 529 (1820), Justice Bailey asked whether arms are “suitable to the condition of people in the ordinary class of life, and are they allowed by law?” and found that “[a] man has a clear right to arms to protect himself in his house. A man has a clear right to protect himself when he is going singly or in a small party upon the road where he is travelling or going for the ordinary purposes of business.” *Id.* at 601-02. Arms could be carried to a public meeting provided they were not “calculated to produce terror and alarm.” *Id.*

22. Of course, the Second Amendment had no religious exception, class requirement or room for legal change. American colonists had a pre-existing right, memorialized in their charters and later in the Second Amendment, “to keep and bear arms.”

23. In *Commentaries on the Laws of England*, a best-seller widely cited by the Founding generation, William Blackstone referred to the right of Protestant subjects in England to have arms for self-preservation and defense. Blackstone, 1 *Commentaries on the Laws of England* 140 (1803). The American colonies were founded as the English were eliminating the restrictions on the right to be armed.

24. The American colonists fearing they were particularly vulnerable to attack when gathered for divine service, passed a series of laws requiring the carriage of weapons to church. A selection of these laws follows:

**Virginia:** A 1619 statute required everyone to attend church on the Sabbath “and all suche as beaere armes shall bring their pieces, swords, poudre and shotte.” Those who failed to bring their weapons were fined three shillings (Lyon G. Tyle, ed., *Narratives of Early Virginia*, 1606-1625, p. 273.) This requirement was repeated in 1623 and 1632 and restated in 1738.

**Massachusetts:** A 1636-37 statute provided, “Because of the danger of Indian attack, and because much of the population was neglecting to carry guns, every person above eighteen years of age (except magistrates and elders of the churches) were ordered to “come to the publike assemblies with their muskets, or other peeces fit for servise, furnished with match, powder, & bullets, upon paine of 12d. for every default” (Nathaniel B. Shurtieff, ed., *Records of the Governor and Company of the Massachusetts Bay in New England* 1, 190 (Boston, 1853)).

**New Haven Colony:** A 1646 statute required “every male from 16 to 60 yeares of age” to have a gun and records fines imposed in 1649 on several men “for not bringing ther armes to the meeting [church] on day when it was their turne’ and failure to bring slowmatch (for matchlock guns), bullets, flints, and other accessories. Charles J. Hoadly, ed., *Records of the Colony and Plantation of New Haven from 1638 to 1649* 201-02 (1857).

**Plymouth Colony:** A 1641 statute provided, “It is enacted That every Towneship within this Government do carry a competent number of pieces fixd and complete with powder shott and swords every Lord’s day to the meetings – one of a house from the first of September to the middle of November, except their be some just & lawfull impediment” (William Brigham, ed., *The Compact with the Charter and Laws of the Colony of New Plymouth* (Boston, 1836) (p.70, 1658, p. 115)). The statute further orders the militia to “carry their armes” to church every

Sunday, with arms defined as “some serviceable peece and sword and three charges of powder and bullets” or be fined 2 shillings and six pence.

**Connecticut:** In 1643, a Connecticut statute required that the congregation “bring a musket, pystoll or some peece, with powder and shott to e[a]ch meeting.” David B. Kopel, *The Religious Roots of the American Revolution and the Right to Keep and Bear Arms*, 17 *Journal on Firearms and Public Policy* 167, 168 (2005).

**South Carolina:** In 1740 and 1743, a Columbia, South Carolina statute stated that “every white male inhabitant of this Province, (except travelers and such persons as shall be above sixty years of age,) who . . . is . . . liable to bear arms in the militia of this Province” who shall “go and resort to any church or any other public place of divine worship,” must “carry with him a gun or a pair of horse-pistols . . . with at least six charges of gunpowder and ball.” 7 David J. McCord, *Statutes at Large of South Carolina*, 417-19 (1840).

**Georgia:** In 1770, “[a]n act for the better security of the inhabitants by obliging the male while persons to carry fire arms to places of public worship,” required “every male white inhabitant of this province, (the inhabitants of the sea port towns only excepted who shall not be obliged to carry any other than side arms) who is or shall be liable to bear arms in the militia . . . and resorting. . . to any church. . . shall carry with him a gun, or a pair of pistols.” The man was to “take the said gun or pistols with him to the pew or seat.” The deacons or elders or select men were “to examine all such male persons” to ensure they were armed. Allen D. Candler, comp., *The Colonial Records of the State of Georgia* (Atlanta, Ga: Chas. P. Byrd, 1910), 19(part 1) pp. 137-140).

25. The New York State Defendants’ expert, Patrick Charles, states in his declaration that these statutes and other like them should not be considered in an historical analysis because



they were “principally intended to quell potential slave revolt[s]” and thus were “inherently racist” (Charles Decl.: ¶ 21). These statutes emphatically should not be disregarded. The American settlers, when gathered for worship, feared attacks from Indians, enslaved people, raiders, and the French, among others. Sadly, congregations of worshippers today remain a target, now for racists and anti-Semites, and still fear for their safety. Thus, if any historical analogies are to be drawn, laws that *required* guns to be brought to church are the appropriate ones.

26. Moreover, New York’s Sullivan Act of 1911 – the law that created the concealed carry licensing regimen that *Bruen* struck down and that the Concealed Carry Improvement Act replaces – was purely racist and xenophobic, and was enacted out of concerns about the wave of immigrants from eastern and southern Europe coming to New York. The aim of the statute was to be able to disarm them. Therefore, if any laws governing carrying arms in places of worship or religious observation are racist, they are those that restrict that right.

27. I have found no laws, cases, statutes or ordinances close to 1791 that simply ban firearms in churches or other places of worship or religious observation.

### **The Fourteenth Amendment and the Right to be Armed**

28. One of the prime reasons for the drafting of the Fourteenth Amendment was that freedmen were not given the rights of citizens to keep and bear arms. Limits of space preclude my providing a fuller discussion, but the work of Stephen P. Halbrook among others makes plain the oppression of freedmen after the Civil War when deprived of their rightful ability to keep and bear firearms for their protection. Stephen P. Halbrook, *Securing Civil Rights: Freedmen, the Fourteenth Amendment, and the Right to Bear Arms* (1998, 2010) is the most comprehensive legal and historical study of the importance of the Second Amendment to the passage of the

Fourteenth Amendment. “The history of the recognition of the right of freedmen to keep and bear arms in the period 1866-76 provides unique insights into the intent of the framers of the Fourteenth Amendment to protect Bill of Rights guarantees from state infringement. . . .” (Halbrook, p. xi.).

29. Indeed, the ratification debates were full of concern that freedmen were being denied their right to keep and bear arms and therefore were unable to protect themselves and their families. And, after ratification of the Fourteenth Amendment, Congress passed the Enforcement Act of 1870 and the Civil Rights Act of 1871 whose legislative histories continued to insist that freedmen not be deprived of the right to be armed. Congress even considered whether to make it a federal crime to conspire to deprive freedmen of the right to assemble and to bear arms. *See* Halbrook, p. x.

30. The New York State Defendants (in a declaration by Patrick Charles) and the New York City Defendants (in the body of their memorandum of law) have each referenced certain statutes and cases that they claim support the argument that there is a national tradition of banning guns from places of worship. However, none of the statutes or cases referenced by either set of defendants actually supports that argument.

31. **First**, as nearly all of the Defendants’ examples are from former Confederate states or territories during the Reconstruction era, those cases and statutes served a unique purpose – to combat efforts to deprive freedmen of the right to be armed and to prevent violence between the races.

32. **Second**, during Reconstruction, these former confederate states and territories were under *martial law*, not the customary common law governance. Thus, the statutes and cases cited by the Defendants are not emblematic of a national historical tradition.

33. **Third**, Exhibits J, K and M of Mr. Charles’s Declaration and the Montana and Missouri laws cited by the New York City Defendants refer only to firearms carried *concealed*. In the nineteenth century, unlike today, concealed carry was disfavored, open carry was not. Since none of those statutes prohibited the *open* carry of firearms in places of worship, they cannot and do not support a finding that there was a historical tradition of such a ban. *See Bruen*, 142 S. Ct. at 2153 (“[W]e will not give disproportionate weight to a single state statute and a pair of state-court decisions ... that contradicts the overwhelming weight of other evidence regarding the right to keep and bear arms for defense in public”).

34. **Fourth**, the Wisconsin law relied on by the New York City Defendants did not prohibit guns at church generally but only insofar as they were possessed in affray of the peace, or to terrorize others. The intention of the Missouri law cited by the New York City Defendants also appears to have been to prevent the carriage of arms in terror of the public, not the peaceful carriage of a gun.

35. **Fifth**, to the extent the laws cited by the Defendants prohibited the carriage of firearms in church, they only did so while a public assembly was taking place. None of these statutes or cases defined the church building itself as a location where, even if empty, guns were categorically forbidden. And, the *Bruen* Court explicitly stated that a location cannot be deemed to be “sensitive” merely because it is a “place[ ] of public congregation.” *Id.* at 2134 (such a definition “defines the category of sensitive places far too broadly .... and would eviscerate the general right to publicly carry arms for self-defense”).

36. **Sixth**, none of the defendants has identified even a single statute or case from any historical era regulating firearms – as the Concealed Carry Improvement Act does – in places of “religious observation,” as distinguished from “places of worship.” This is not surprising,

because, to my knowledge, no such regulation has ever existed at any time in our Nation's history.

37. Properly understood, the Fourteenth Amendment secured the Second Amendment in the original text. The judicial incorporation of the Second Amendment in *McDonald*, 561 U.S. at 742, assures that individuals throughout the United States have the right of self-defense based on that original text of the Second Amendment. This right cannot be removed and individuals' lives imperiled by the expedient of calling a place of worship or religious observation a sensitive place.

**Places of Worship Are Not Sensitive Places**

38. New York has branded places of worship and religious observation "sensitive places" which, in accordance with the *Heller* decision, can limit or ban carrying firearms. Are they? No. The *Heller* decision mentioned schools, courts and government buildings as places that can be considered sensitive places where guns can be banned. *Heller*, 554 U. S., at 626. The Court did not include places of worship and it certainly did not include places of "religious observation."

39. First, churches (and other places of worship) have not been treated historically as sensitive places. The First Amendment singles out religious observance for special protection, insisting there be free exercise of religion. As a country made up of residents of many different religions and adamantly opposed to the federal government establishing an official religion, the First Amendment made clear that the free exercise of religion was an essential right of Americans. That freedom has been deeply embedded in the nation's history and culture. Thus, the notion that constitutional rights would be *more* restricted in "places of worship or religious

observation” rather than less is antithetical to that concept and inconsistent with any American historical tradition.

40. Second, houses of worship are not public property – as are the civic entities referenced as sensitive places in *Heller* and *Bruen* – but private property. If a congregation wants to ban the carrying of firearms on its premises it can do so. If it did not want to have such a ban, the government is not in a position to impose one.

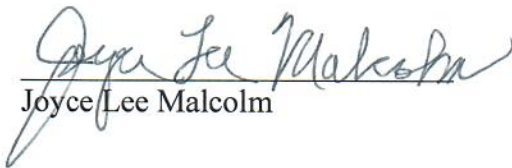
41. The New York law arbitrarily singles out places of worship and religious observation as “sensitive places” in order to ban the carrying of weapons in those locations, and argues that individuals don’t need a weapon there because they can hire an armed guard.

42. But there is no historical basis for treating a place of worship as a “sensitive place,” leaving congregants dependent on others for their protection. Indeed, Justice Alito notes that “[t]he police cannot disarm every person who acquires a gun for use in a criminal activity” or protect every New York resident all of the time. Further, “[s]ome are members of groups whose members feel especially vulnerable. And some of these people reasonably believe that unless they can brandish or, if necessary, use a handgun in the case of attack, they may be murdered, raped, or suffer some other serious injury.” *Bruen*, 142 S. Ct. at 2158.

43. Members of Jewish congregations have been attacked in the recent past and have every reason to fear violent attacks in their places of worship and religious observation. Justice Alito concludes: “Today, unfortunately many Americans have good reason to fear that they will be victimized if they are unable to protect themselves. And today, no less than in 1791, the Second Amendment guarantees their right to do so.” *Id.* at 2161. The New York ban on guns in places of worship and religious observation is unconstitutional and must be struck down.

A copy of my signature, sent electronically or by facsimile transmission, may be treated as the original for the purpose of serving and filing this declaration, and the original will be provided if required.

Dated: New York, New York  
October 24, 2022

  
Joyce Lee Malcolm

# EXHIBIT

# 1

**JOYCE LEE MALCOLM**  
**PATRICK HENRY PROFESSOR OF CONSTITUTIONAL LAW AND THE**  
**SECOND AMENDMENT**  
**ANTONIN SCALIA LAW SCHOOL**  
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**DEGREES**

Ph.D., M.A., Brandeis University, Comparative History  
B.A. Barnard College, Distinction in History  
FRHS Fellow, Royal Historical Society

**ACADEMIC AND RESEARCH POSTS**

**Antonin Scalia Law School, George Mason University**  
Patrick Henry Professor of Constitutional Law and the Second Amendment, 2013 to  
June, 2020, now emeritus  
Professor of Law, 2006 to 2013

**Member, National Council on the Humanities**, appointed and sworn in September  
2019—2022.

**American Council for Trustees and Alumni**, Council of Scholars 2015 to present

**National Endowment for the Humanities**  
Director, Division of Research Programs, 2005-2006

**Princeton University**  
Visiting Professor, Politics Department, 2003-2004  
Fellow, James Madison Program in American Ideals and Institutions, 2003-2004

**Massachusetts Institute of Technology**  
Senior Advisor, Security Studies Program, Center for International Studies, 1997-present

**Bentley University**  
Professor of History, 1992-2006; Associate Professor, 1988-1992  
Chair, Department of History, 1992-1994

**Massachusetts Center for Renaissance Studies**  
Visiting Scholar, 1999-2001



**Bye Fellow, Robinson College, Cambridge University**  
1989-present

**Founder and Director, New England Heritage Center,**  
1986-2000

**National Park Service Consultant**  
Early American Legal and Social History, 1982-1983

**Boston University**  
Assistant Professor of History, 1978-1979

**Northeastern University**  
Assistant Professor of History, part-time

### **PROFESSIONAL AFFILIATIONS**

Member, National Council on the Humanities  
Fellow, James Madison Society, Princeton University  
Fellow, Royal Historical Society  
Council of Scholars, American Council of Trustees and Alumni  
Past President, Northeast Conference on British Studies  
Bye Fellow, Robinson College, Cambridge University

### **TEACHING INTERESTS**

Major Fields of Specialization: Constitutional and Legal History, The Individual and the State, especially the development of individual rights in Great Britain and America; War and Society; Crime, Violence and Public Policy; Comparative Constitutional Law

Additional Fields: Early Modern Britain, Irish History, Early Modern Europe

Courses Teaching: War and Law, Common Law and American Rights, Comparative Constitutional Law, Unmanned Aerial Systems, Advanced Constitutional Law: The Founding.

### **PUBLICATIONS**

#### ***BOOKS***

*The Tragedy of Benedict Arnold*, Pegasus Press, May 1, 2018. Paperback, forthcoming November, 2019. Winner, Sons of the Revolution in the State of New York/Historic Fraunces Tavern Museum Book of the Year Award, 2019; The Society of the Cincinnati Book of the Year History Prize, 2019; finalist, George Washington Book Prize from a group of 60 books. In the July 14, 2018 review of *The Tragedy of Benedict Arnold: An American Life*, "What drove Benedict Arnold to give up the Patriot cause and turn

treasonous?” in the *Washington Post*, Alexis Cope wrote: “Malcolm has written a fine biography—the best in recent memory, in fact.”

*Peter's War: A New England Slave Boy in the American Revolution*, Yale University Press, December, 2008, paperback, November 2010. Nominated for the Pulitzer Prize. Named a Camden Book by Yale University Press.

*Guns and Violence: The English Experience*, Harvard University Press, May, 2002, paperback September 2004. This book examines the relationship between armed citizens and violent crime by analyzing the English experience from the late Middle Ages to the present. The book was reviewed in the *Wall Street Journal* and Fox News online and widely discussed both here and abroad. Brazilian edition, translated into Portuguese, CEDET (Centro de Desenvolvimento Profissional e Tecnológico), July, 2014.

*The Struggle for Sovereignty: Seventeenth-Century English Political Tracts*, 2 vols. Liberty Classics, May, 1999. I edited, introduced and compiled this collection. The tracts deal with key constitutional debates and issues basic to modern American and British political philosophy and practice. Now also available online.

*To Keep and Bear Arms: The Origins of an Anglo-American Right*, Harvard University Press, 1994, paperback, 1996. A best seller on Amazon. First full-scale study by a professional historian of the origins of a significant and controversial liberty, the right to be armed. Three printings in its first 6 months.\*\*\*Cited with approval US Supreme Court, *District of Columbia v. Heller* (June 26, 2008) and *McDonald v. City of Chicago* (2010), and by US Circuit Court of Appeals in *Shelly Parker et. al. vs District of Columbia*, March, 2007. Also cited Supreme Court opinion, *Jay Printz, et. Al.*, June 1997. \*\*\*Singled out by Supreme Court Justice Antonin Scalia as an “excellent study”, *A Matter of Interpretation: Federal Court and the Law* (Princeton, 1997), pp. 136-7. Widely cited in court opinions and scholarly literature. Translated into Portuguese by a Brazilian publisher, August 2014.

*Caesar's Due: Loyalty and King Charles, 1642-1646*, Royal Historical Society Monograph Series (London, 1984), Humanities Press (USA, 1984). This is an analysis of public opinion and loyalty during the English Civil War.

*The Scene of the Battle, 1775*, Department of the Interior (Fall, 1985). Original investigation of the people and setting of the battle of Lexington and Concord. It has been used in both historical writing, and as a guide for restoration of the Minute Man National Historical Park.

## **CHAPTERS IN EDITED BOOKS**

“The Right to Be Armed: The Common Law Legacy in England and America” in *Firearms and Common Law* edited by Aspen Institute, Smithsonian Institution Scholarly Press, 2019.

Chapter 2, “The Second Amendment right to self-defence: The core freedom in the new century”, *The Second Amendment and Gun Control: Freedom, Fear and the American Constitution*, ed. Kevin Yuill, Routledge Press, pp. 25-35, London, 2017.

“Judicial Nullification Continues: Connecticut Judge Defies Law Prohibiting Suits Against Gun Manufacturers,” Academic Commentary, JURIST, May 2, 2016, repr. in *Encyclopedia of Gun Control and Gun Rights*, 3<sup>rd</sup> ed., Gray House Publishing, forthcoming, October, 2017.

“Magna Carta in America: Entrenched,” chapter 6, *Magna Carta: The Foundation of Freedom*, pp. 120-135. Official book of the Magna Carta Trust to mark 800<sup>th</sup> anniversary of Magna Carta, August, 2014.

“Freedom and the Rule of Law: The Ingenious British Legacy” in *Freedom and the Rule of Law*, ed. Anthony A. Peacock (Lexington Books, 2010), pp. 23-40.

“On Writing History for the General Public: Response to Hochschild.” *Recent Themes on Historians and the Public: Historians in Conversation*, ed. Donald A. Yerxa (Columbia, South Carolina, 2009), pp. 106-108.

”Abridged: The Second Amendment,” in *You Decide: Current Debates in American Politics*, Longman Publishers, 8<sup>th</sup> ed. (Jan. 2012).

“The Novelty of James Madison’s Constitutionalism,” in *James Madison and the Future of Limited Government* (Washington, D.C., 2002).

“The Right of the People to Keep and Bear Arms: The Common Law Tradition,” *Hastings Constitutional Law Quarterly*, vol. 10, no. 2 (Winter, 1983) reprinted in *The Bill of Rights and American Legal History*, ed. Paul L. Murphy, Garland Press (1991); in *Controversies in Constitutional Law, Gun Control and the Constitution*, vol. III, Garland Press (1993); in *Gun Control and the Constitution: Sources and Explorations on the Second Amendment* (Garland Press, 1994)

#### **ARTICLES:**

“Americans and Guns: A Brief History,” BBC History Magazine digital, June 16, 2022.

“Should the McCloskeys Have Waited for the Police?” *The American Spectator*, October 24, 2020.

“Self-Defense: An Inalienable Right in a Time of Peril,” October, 2020, Liberty and Law Project, Scalia Law School.

“The Case for Second Amendment Sanctuaries: The Duty to Defend the Constitution,” SSRN, September, 2020.

“The Right to Carry Your Gun Outside: A Snapshot History,” *Law and Contemporary Problems*, *Law and Contemporary Problems*, Duke University Law School.

“Defying the Supreme Court: Federal Courts and the Nullification of the Second Amendment” *Charleston Law Review*, Vol. 13, Winter 2018, No. 2, pp. 295-314.

“The Peculiar Institution and the Supreme Court,” review of Paul Finkelman, *Supreme Injustice: Slavery in the Nation’s Highest Court*, Law and Liberty, April 16, 2019.

“The Connecticut Ruling: Another Attempt to Blame the Gun for Gun Crime,” Law and Liberty, April 1, 2019.

“Will the Right to Bear Arms Become a ‘Constitutional Orphan’? Law and Liberty online, February 5, 2019.

“Freedom to Speak, Freedom to Hear: Ending the Heckler’s Veto,” American Council of Trustees and Alumni, October, 2018. Distributed to college presidents and trustees throughout the country.

“The Right to Be Armed: The Ninth Circuit Giveth Then Taketh Away,” JURIST Guest Columnist, October 1, 2018.

“Benedict Arnold—Nine Things You Didn’t Know about America’s Most Infamous Traitor,” militaryhistorynow.com, July 19, 2018.

“*Five Best Books on Treason*,” Wall Street Journal, June 23, 2018.

“Where Are the Moderates?” History New Network, June 24, 2018.

“Building a Culture of Free Expression on the American College Campus,” American Council of Trustees and Alumni, April, 2018. 25,000 copies printed.

*Stand Your Ground: A History of America’s Love Affair with Lethal Self-Defence*, review, Beacon Press, *The Historian*, forthcoming.

“Court Opinion Puts Residents of Chicago Closer to Getting Their Second Amendment Rights,” JURIST, comment, January 31, 2017.

“The Second Amendment: A Fundamental Principle of American Liberty” special section *The Washington Times* in honor of 225<sup>th</sup> anniversary of ratification of the Bill of Rights, December 13, 2016.

*Gun Culture in Early Modern England*, Lois G. Schwoerer, review, *The Journal of Interdisciplinary History*, vol. 48, no. 1, Summer 2017, pp. 87-89.

“After Orlando an Attack on the Usual Wrong Suspects,” *LawNewz*, June 18, 2016.

“Judicial Nullification Continues: Connecticut Judge Defies Law Prohibiting Suits Against Gun Manufactures,” Academic Commentary, *Jurist*, May 2, 2016. To be reprinted in *Encyclopedia of Gun Control and Gun Rights*, 3rd edition.

“What are the real issues in the US gun control debate?” *BBC History Magazine*, January, 2016, pp. 14-15.

*The Second Amendment: A Biography*, Michael Walden, review, *Indiana Magazine of History*, vol. 111, issue 4, December, 2015, p. 458-459.

“Vermont: When Armed and Safe Is Not Good Enough,” Academic Commentary, *Jurist*, May 27, 2015.

“Infringement,” reprinted in special issue, “Law of the USA”, *Ukrainian Law Journal: Law of the USA*, vol. 2 (2013), pp. 251-257.

*A Distinct Judicial Power: The Origins of an Independent Judiciary, 1606-1787*, Scott Gerber, review, *Reason Papers*, vol. 342, October, 2012, pp. 215-221.

“Arming America Controversy,” *Guns in American Society: An Encyclopedia of History, Politics, Culture, and the Law*, ed. Gregg Lee Carter, 3 vols., 2<sup>nd</sup> ed. (Santa Barbara, 2012), pp. 45-49.

“The Road to London’s Riots Paved with Good Intentions,” *London Society Journal*, Issue 462, Winter 2011/Spring 2012, pp. 15-16.

“Self-Defense in England: Not Quite Dead,” *Journal of Firearms and Public Policy*, Vol. 23, 2011, pp. 60-75.

“Whatever the Judges Say It Is? The Founders and Judicial Review,” *Journal of Law & Politics*, University of Virginia School of Law, Vol. XXVI, No. 1 (Fall, 2010), pp. 1-37. repr. in *Pennsylvania Bar Institute*, Ninth Constitutional Law Conclave, vol. xxvi:1, 2013, pp. 27-73.

“Slavery in New England and the American Revolutionary War,” *The Journal of the Historical Society*, vol. X, no. 4, December, 2010, pp. 415-436.

“McDonald versus City of Chicago: The Second Amendment Made Clear, the Fourteenth Amendment Made Murky,” Online Colloquy, *Northwestern Law Review*, 105:85, October 27, 2010; *Northwestern Law Review*, vol. 105, issue 1.

“Growing Up in Interesting Times,” review of Emmy E. Werner, *In Pursuit of Liberty: Coming of Age in the American Revolution*, *Reviews in American History*, Vol. 38, No. 3 (September, 2010), pp. 420-424.

“The Supreme Court and the Uses of History: District of Columbia versus Heller,” *UCLA Law Review*, vol. 56, no. 5, June, 2009, pp. 1377-1398. Repr. *Pennsylvania Bar Institute*, Ninth Constitutional Law Conclave, vol. xxvi:1, 2013. pp. 13-36.

Invited Comment on Practicing History without a License” by Adam Hochschild, *Historically Speaking*, vol. IX, No. 4, March/April, 2008, pp. 14-15. Reprinted in series *Historians in Conversation*, forthcoming.

Anthony Brundage and Richard Cosgrove, *The Great Tradition: Constitutional History and National Identity in Britain and the United States, 1870-1960*, review, *American Historical Review*, April 2008, pp. 466-7

Clive Emsley, *Hard Men: Violence in England since 1750*, review, *English Historical Review*, Vol. CXXII, No. 499, pp. 430-31.

“The UN’s Global Campaign to Disarm Civilians: Wisdom or Folly?” *Breakthroughs*, vol. XIV, no. 1, Massachusetts Institute of Technology, Spring, 2005, pp. 22-30.

“Firearms (non-military),” essay for *Encyclopedia of the New American Nation*, Scribers, in press.

Regular contributor to website of Social Affairs Unit, UK ([socialaffairsunit.org.uk](http://socialaffairsunit.org.uk)). The Social Affairs Unit is a British foundation that publishes “intelligent comment and serious articles and reviews on culture high and low” contributed by a roster of distinguished British scholars. See published essays below.

“Democracy’s Inconvenient Truth: Ireland Rejects the EU Treaty”  
July, 2008

“Time for the Police to Be Armed and for Home Owners to Have the Right to Protect Themselves,” December 8, 2005.

“9/11, 7/7 and Hurricane Katrina: The Benefits of the Disaster Blame Game,”  
September 21, 2005.

“The London Bombings: Britain’s Pearl Harbor?” August 25, 2005.

“A Tale of Two Documents: The EU Constitution vs. the US Constitution”  
July 4, 2005.

“The Cost of Playing ‘Let’s Pretend’: an American Perspective on the Demise of the Irish Moderates,” June 1, 2005.

“Civil Liberties Cannot Be Defended Selectively,” March 30, 2005.

“The People vs Super-Nanny: The Options for Hunters and Householders,”  
February, 18, 2005.

“Why Parliament will not restore the householder’s right to self-defence,” January 12, 2005.

“Bashing Burglars: The Right to Self-Defence,” December, 2004.

“That Dog Don’t Hunt: Hunting and Politics in America and Britain,” November, 2004

“A Rescue Effort to Save Diplomatic and Military History,” *Historically Speaking*, July/August, 2004, pp. 40-41.

“Self-Defense: An Endangered Right,” cover essay, *Cato Policy Report*, Cato Institute, vol. XXVI, no. 2, March-April, 2004.

“Lessons of History: Firearms Regulation and the Reduction of Crime,” *Texas Review of Law and Politics*, vol. 8, no. 1, Fall, 2003, pp. 175-187.

H. Jefferson Powell, *A Community Built on Words: The Constitution in History and Politics*, book review, *American Historical Review*, April, 2004, pp. 517-518.

“Gun Control in England: The Tarnished Gold Standard,” *Firearms and Public Policy*, vol. 16, Fall 2004, pp. 123-134.

“Terror in Renaissance Europe: A Sampler,” *Massachusetts Center for Renaissance Studies Journal*, Spring 2004.

“Gun Laws and Policies: A Dialogue,” *Focus on Law Studies*, American Bar Association, vol. XVIII, no. 2 (Spring, 2003).

“Infringement,” *Common-Place*, vol. 2, no. 4, July, 2002. This was a special issue with roundtables on controversial aspects of the Constitution. This essay was reprinted in John T. Rourke, ed., *You Decide*, Longman’s Publishers (White Plains, 2003) now in its 7<sup>th</sup> edition.

Akhil Amar, *The Bill of Rights: Creation and Reconstruction*, book review, *American Historical Review*, vol. 107, no. 1 (February, 2002), pp. 177-178.

Don Kates and Gary Kleck, *Armed: New Perspectives on Gun Control*, review, *Ideas on Liberty*, December, 2002, 246-247.

Michael Mendle, ed., *The Putney Debates of 1647: The Army, the Levelers, and the English State*, book review, *Journal of Interdisciplinary History*, January, 2003.

Review essay, *Arming America: The Origin of a Gun Culture* by Michael Bellesiles, *University of Texas Law Review*, vol. 79, no. 6 (May, 2001) pp. 1657-1676. (this law review is one of the 5 most widely read).

“The Missing Mob, or Why Charles I Was Not Rescued,” *North American Society for Court Studies*, Spring, 2000.



Stephen P. Halbrook, *Freedmen, the Fourteenth Amendment, and the Right to Bear Arms, 1866-1876*, book review, *American Historical Review*, June 2000, pp. 931-932.

“Doing No Wrong: Law, Liberty and the Constraint of Kings,” *Journal of British Studies*, vol. 38, no. 2 (April, 1999), pp. 161-186.

“The Vanishing Right of Self-Defence in England,” *Breakthroughs*, MIT Security Studies Program, vol. VIII, no. 1, spring, 1999.

“The Second Amendment and the Individual’s Right to Be Armed,” Statement to the US Senate Committee on the Constitution, expert witness, September 23, 1998.

“The Origins and Intent of the Second Amendment,” Statement to the US House of Representatives Judiciary Committee Subcommittee on Crime, expert witness, April 5, 1995.

“Gun Control and the Constitution: Sources and Explorations of the Second Amendment,” review essay, *University of Tennessee Law Review*, vol. 62, no. 3 (Spring, 1995), pp. 813-821.

“The Creation of a ‘True, Ancient, and Indubitable’ Right: The English Bill of Rights and the Right to Be Armed,” *Journal of British Studies*, 32 (July, 1993), pp. 226-49.

“The Role of the Militia in the Development of the Englishman’s Right to Be Armed: Clarifying the Legacy,” *Journal of Firearms and Public Policy*, vol. 5, no. 1 (Fall, 1993), pp. 139-152.

“Charles II and the Restoration of Royal Power,” *The Historical Journal*, 35, 2 (1992), pp. 307-330. (*The Historical Journal* is published by Cambridge University).

“That Every Man Be Armed: The Evolution of a Constitutional Right,” review essay, *The George Washington Law Review*, vol. 54, nos. 2 & 3 (January & March, 1986), pp. 452-464. This was a special issue on civil right and civil liberties. My essay was reprinted in *Controversies in Constitutional Law, Gun Control and the Constitution*, vol. II, Garland Press (1993).

“The Right of the People to Keep and Bear Arms: The Common Law Tradition,” *Hastings Constitutional Law Quarterly*, vol. 10, no. 2 (Winter, 1983), pp. 285-314. This article has been widely cited in books, court decisions and law review articles and reprinted in major collections, for example, *The Bill of Rights and American Legal History*, ed. Paul L. Murphy, Garland Press (1991); *Controversies in Constitutional Law*, ed. Paul Finkelman, *Gun Control and the Constitution*, vol. III, Garland Press (1993); and Robert Cottrol, ed., *Gun Control and the Constitution: Sources and Explorations on the Second Amendment* (Garland Press, 1994).

### ***SELECTED ESSAYS & Op-Eds in Popular Journals and Newspapers***



Cited in “Proposed gun control measures lack empirical evidence they reduce crimes, experts say,” Emma Cotton, Fox News, June 16, 2022.

“Where are the moderates?” Historynews online, June 24, 2018.

“Five Best Books on Treason,” *Wall Street Journal*, June 23, 2018.

“The ‘Nice Girl’ Who Saved the Second Amendment,” John Miller, profile of me featured on cover of *National Review*, April 16, 2018.

“Two Cautionary Tales of Gun Control,” *Wall Street Journal*, December 27, 2012, A13. Widely reprinted on the web.

“The Soft-on-Crime Roots of British Disorder,” *Wall Street Journal*, August 16, 2011. A13.

“The English Riots: How British law fosters disorder,” *Powerline Blog*, August 19, 2011.

“Wrestling with Gun Rights,” *Philadelphia Inquirer*, May 23, 2010, C. 1, 3.

“A Key Right Recaptured”, invited essay, Huffington Post online, June 26, 2008.

“A Basic Right Rescued,” Reason Magazine online, June 27, 2008.

“Euthanasia and the Sport of Kings”, Social Affairs Unit, May 16, 2008.

“Wonderfully Spared,” Op-Ed essay in honor of July 4, *Wall Street Journal*, July 3, 2007. Also featured in the WSJ online Opinion Journal and picked up by Instapundit.

“Mad Dogs and Englishmen,” Op-Ed essay, *Wall Street Journal*, June 17, 2006.

“Where I come from, our homes are still our castles,” opinion piece, British *Sunday Telegraph*, October 31, 2004. The *Sunday Telegraph* has the second largest circulation among Sunday papers nationally. Also online at [www.telegraph.co.uk](http://www.telegraph.co.uk). Reprinted in *First Freedom*, January issue.

“The Case for Self Protection,” *The American Legion Magazine*, October, 2004, pp. 40-44. 2.7 million subscribers, over 4 million readers. This essay has been reprinted in six different journals.

“Disarming History: How *Arming America* Was Exposed as a Fraud,” *Reason Magazine*, March, 2003, pp. 22-29.

“Gun Control in Great Britain: A Failed Policy,” BBC News Online feature essay, January 14-15, 2003. The BBC News online is second in size only to CNN news online and gets 12 million hits a day.

“Gun Control’s Twisted Outcome,” *Reason Magazine*, November, 2002, pp. 20-25.

“Trigger Unhappy,” cover essay, *Financial Times Weekend Edition*, June 22, 2002.

“Guns & Violence,” opinion piece, *Times Higher Education Supplement*, June 21, 2002.

“Targeting a Myth,” cover essay, Focus section, *Boston Sunday Globe*, May 26, 2002, pp. D 1-2. This article averaged the 2<sup>nd</sup> greatest number of online hits the entire week.

“Concealed Weapons,” *Reason Magazine*, vol. 32, no. 8, January 2001, pp. 46-49.

Opinion Piece, “English Are Becoming the Slaves of Ruffians,” *The Providence Journal*, December 1, 1998.

Opinion Piece, “Of Guns and Knitting Needles,” *The Washington Times*, January 14, 1999.

Guest Historian, *USA Today*, Op-Ed page, “Mistrust of government: Key to American History,” June 23, 1995. This piece was reprinted in *USA Today* European edition. I have also written a number of articles on constitutional issues carried by the Knight-Ridder wire service.

## ***MEDIA***

Interviewed on numerous television and radio talk shows, and for the press including the following:

Panelist, Gun Control, Lockdown University, April 5, 2022.

Interview, Larry Elder Show, Salem Radio Network, 300 radio stations, March 23, 2021.

“Second Amendment in a Time of Civil Unrest,” CATO interview with 3 colleagues podcast, December 14, 2020.

Interview, film on *District of Columbia v. Heller* and film on *McDonald v. City of Chicago*, Federalist Society, October 21, 2020.

Interviewed, I Spy on Salem, Oregon radio network, state wide, on history of American Constitution and individual rights, July 9, 2020.

Interviewed, I Spy on Salem, Oregon radio network, on Constitution and Right in the coronavirus era, May 13, 2020.

Interviewed, Kimberly Atkins, WBUR, Boston’s NPR News Station, Massachusetts 2<sup>nd</sup> Amendment challenges, May 13, 2020.

Interviewed, Farivar Masood, Voice of America, on President’s Power Over Re-opening Country after Coronavirus Shutdown, April 15, 2020.

Interviewed, Ryan Miller, USA Today, on Virginia 2<sup>nd</sup> Amendment Sanctuary Counties, December 8, 2019.

Interviewed, Kimberly Robinson, Bloomberg News, on Supreme Court argument in New York gun case, December 4, 2019.

Podcast, *Age of Jackson*, on *Arming America* controversy, August 14, 2019.

Presentation, Benedict Arnold, Great Lives Series, Mary Washington University, filmed by CSPAN, February 5, Fredericksburg, VA.

Interviewed, Grant Stinchfield, NRATV, February 12, 2019.

Interviewed for documentary, “Guns and Freedom” by British producers for full-length film on the issue, January 12, 2019, forthcoming summer, 2019.

Interviewed for documentary on Benedict and Peggy Arnold for Smithsonian Television, October 13, 2018.

Podcast, Legacy of Anthony Kennedy and nomination of Brett Kavanaugh, Aaron Feiwald, “Good Law, Bad Law,” one of leading law-related podcasts, July 19, 2018.

Gary Shapiro, Bookshelf, KSCO, Serius XM, Santa Cruz, CA, July 12, 2018.

Pat Williams, NBS’s Orlando Magic, WDBO FM 96.5, May 24, 2018.

John Fugelsang, “Tell Me Everything”, Serius XM Radio, May 7, 2018.

Podcast on *The Tragedy of Benedict Arnold*, Bookmonger, April, 2018.

“‘The Nice Girl’ Who Saved the Second Amendment,” John Miller, profile of me in National Review Magazine, feature article, April 16, 2018.

Mike Slater Show, AM 760-KFMB, San Diego, April 4, 2018.

Larry Elder Radio Show, Salem network talk radio, KKL, San Francisco, October 4, 2017.

Kojo in Your Community, “Guns, Law & Local Safety,” WAMU 88.5, Arlington, VA, July 25, 2017.

Bloomberg Radio Law News, New York, December 8, 2016.

Joe Generally, host, Freedom and Prosperity Radio, Virginia, June 15, 2016.

Brian Schimming, guest host, Vicki McKenna, NewsTalk 1310 WIBA, Madison Wisconsin, August 12, 2014.

Kevin Miller Show, 580 KIDO, Boise, ID, August 8, 2014.

Tim Constantine, “Capitol Hill Show,” August 5, 2014.

Insidesources, online journal, posted July 11, 2014

Larry Altman, Washington Times Radio, “Capitol Hill Show with Tim Constantine,” to air July 9, 2014.

Interview, Carla Marinucci, Sr. Political Writer, *San Francisco Chronicle*, July 7, 2014.

Voice of Russia, American Edition, November 22, 2013.

Voice of America, television interview, September 19, 2013.

BBC Breakfast Show, Manchester, England, September 16, 2013.

Ray Suarez, “Need to Know” PBS WNET roundtable on gun history, New York, April 17, 2013.

PBS NewsHour with Kwame Holman, posted online, March 21, 2013.

CBN News, Jennifer Wishon, White House Correspondent, February 5, 2013.

Reuters, New York, February 1, 2013.

Sun News, Brian Lilley Show, Ottawa, January 18, 2013.

NPR affiliate KPCC, “Take Two” news program, Los Angeles, largest NPR affiliate in LA area, January 16, 2013.

Kudlow Report, CNBC, December 27, 2012.

Mike Pintek Show, 1020 KDKA Newsradio, Pittsburgh, PA, January 4, 2013.

Larry Elder Show, KABC – AM, Talk Radio 790, Los Angeles, January 2, 2013.

WMAL, “Mornings on the Mall,” Washington, D.C., December 31, 2012.

Daily Wrap Up with Michael Castner, Wall Street Journal, nationally syndicated, December 27, 2012.

Hancock and Kely Show, KMOX, St. Louis, December 27, 2012.

Interview, Congressional Quarterly, July 31, 2012 on gun control bills in Congress.

5 radio interviews in August-September, 2011 on British riots.

Fox News, May 7, 2010.

Radio Smart Talk, July, 2010.

Voice of America, Mandarin edition, June 30, 2009.

"Roy Basnett Show," City Talk Radio. 105.9, Liverpool, England, April 1, 2009.

Boston Globe, interview on *Peter's War*, March 14, 2009, Arts Section, p. 4.

"Sean Moncrieff Show," Newstalk Radio, Dublin, Ireland, March 20, 2009.

Janis Pryor, "Commonwealth Journal," 30 stations around New England, February, 2009.

BBC World News America with Walter Dellinger, anchor Matt Frei, June 26, 2008 on Supreme Court decision on Second Amendment.

Interview, Chinese Media Net, June 26, 2008.

"To the Point," Public Radio, March 18, 2008.

Kenji Kohno, NHK, Japan Broadcasting Corporation, April 22, 2007.

Gene Burns Program, KGO Radio San Francisco (ABC Radio's #1 station for Northern California), September 22, 2006.

BBC Radio 5, Late Night Live with Phil Williams, December 19, 2005.

Michigan Public Radio, Ann Arbor, Michigan, Jack Losenberry Program, October 5, 2005

BBC Radio 5, Sunday Breakfast Program, March 13, 2005

BBC Radio 5, "Up all Night," December, 2004.

Dan Pierce Program, largest radio network in New Hampshire, June 24, 2004.

Lee Rogers Program, KSFO-radio, San Francisco, July 7, 2003.

Alan Jones Programme, Radio 2GB Sydney, Australia, Jun 4, 2003.

Documentary film, "Michael and Me," March 29, 2003 on Michael Moore.

BBC Radio 5, Matthew Bannister host, January 15, 2003.

BBC Radio 5, "Up All Night," January 2, 2003.

BBC World Service, "Talking Point," October 27, 2003.

The Global Village, WLIB, National Public Radio, New York City, September 9, 2002.

Glen Mitchell Show, National Public Radio, Dallas, August 23, 2002.

Laura Ingraham Show from Washington, syndicated, AM840, August 16, 2002.

WGBH (PBS TV), "Greater Boston with Emily Rooney," July 9, 2002. Also appeared on this program December, 1998.

BBC Radio 4, "Women's Hour," July 4, 2002.

Ron Smith Show, WBAL AM1090 Baltimore area, July 2, 2002.

National Public Radio, KPCC Pasadena, "Talk of the City," June 5, 2002.

Leherer News Hour, PBS, May 8, 2002.

National Public Radio, "Talk of the Nation," July, 1998, February, 1996.

Wisconsin Public Radio for documentary, aired March, 2001.

Barbara Simpson Talk Show, Radio Station KSFX San Francisco, largest AM station in Bay area, September, 1999.

Appeared in documentary "History of Women and Firearms," History Channel, November, 1998.

### HONORS & FELLOWSHIPS

Member, National Council on the Humanities, appointed by the president, sworn in September 2019. Serving to present.

*The Tragedy of Benedict Arnold: An American Life*, winner Sons of the Revolution in the State of New York/Historic Fraunces Tavern Museum Book of the Year, 2019; Society of the Cincinnati, History Book Prize for book of the year; finalist for George Washington book prize.

*Peter's War: A New England Slave Boy and the American Revolution* nominated for the 2010 Pulitzer Prize by Yale University Press. Selected as a Caravan Book.

Outstanding Scholarly Contribution Award, Bentley University, 2005

James Madison Program Fellow, Princeton University, 2003-2004

Visiting Professor, Department of Politics, Princeton University, 2003-2004

Earhart Foundation, Research Fellowship Grant, 2003-2004

Innovation in Teaching Award, Bentley College, 2002

Rauch Grant, 2002

Summer Research Grants, Bentley College, 2005, 2004, 2001, 1999, 1995

Faculty Affairs Committee Grant, 2001

Visiting Scholar, Liberty Fund, January-June 2000

Jasper and Marion Whiting Foundation Fellowship, 1996-1997

Earhart Foundation, Research Fellowship Grant, 1996-1997

Fletcher Jones Foundation Fellow, Huntington Library, San Marino, California, 1991

Research Fellowship, Bentley Institute for Research, 1991-1992

Bye-Fellow, Robinson College, Cambridge University, 1989-present

Nominee, CASE Professor of the Year, Bentley College, 1987

Excellence in Research Award, Bentley College, 1986

Visiting Fellow, Harvard Law School, 1981-1982

Fellowship in Legal History, American Bar Foundation, 1980-1981

Mark DeWolfe Howe Research Grant, Harvard Law School, 1980-1981

NEH Fellowship for Independent Research and Study, 1979-1980

Fellowship, Radcliffe Institute, Harvard University, 1979-80

### CURRENT WRITING

Book project, *Times that Try Men's Souls: Families Torn Apart by the American Revolution*, in progress.

Bills of Attainder during the American Revolution

### SAMPLE PROFESSIONAL ACTIVITIES

Speaker, panelist on “Race and the Second Amendment”, Northeastern Illinois University Library, “Perspectives on the Constitution” series, November 15, 2021.

Amicus Brief of the Firearms Policy Coalition and Professor Joyce Lee Malcolm, as Amici Curiae Supporting Petitioners, for New York State Rifle & Pistol Association, Inc., et. al., Petitioners v. Keith M. Corlett in His Official Capacity as Superintendent of New York State Police, submitted July 19, 2021.

Speaker and interview, Benedict Arnold book, History Camp Online, February 11, 2021.

Speaker, Benedict Arnold book, Norwich Historical Society, January 28, 2021.

Speaker, “Bitter Clingers: Depending on the Second Amendment in Times of Peril,” Washington D.C. Young Lawyers, Federalist Society, January 7, 2021.

Panel, “Second Amendment in Dangerous Times”, CATO, December 14, 2020.

Review, Manuscript on Firearms for Oxford University Press, December, 2020.

Committee in support of Title XI new regulations.

Interviewed, Documentary on George Mason, Federalist Society, air fall 2020.

Speaker, on *The Tragedy of Benedict Arnold: An American Life*, Old Barracks Museum, Trenton, NJ, November 21, 2019.

Guest Scholar, Bill of Rights Institute webinar, discussing *Marbury v. Madison*, November 13, 2019.

Speaker, Book & Author Luncheon, Fairfax City Branch of AAUW, Springfield, VA, November 2, 2019.

Speaker, “Gun Rights and Regulation Outside the Home, Duke Center for Firearms Law, Duke Law School, Durham, N.C., September 27, 2019.

Chairman, Committee on Visiting Scholars, Fall, 2019.

Faculty Advisor, Law Students for the Second Amendment.

Speaker, Otis McDonald Memorial Lecture, Chicago Federalist Society Lawyers’ Chapter, May 11, 2019.

Speaker, Originalism Boot Camp, Georgetown Law Center, May 24, 2019.

Participant, Second Annual Thomas M. Cooley Symposium, Georgetown Center for the Constitution, April 12, 2019.

Presentation, *The Tragedy of Benedict Arnold: An American Life*, “Generals Behaving Badly,” Virginia Festival of the Book, Charlottesville, VA, March 20, 2019.

Presentation, *The Tragedy of Benedict Arnold: An American Life*, National Presbyterian Church, Washington, D.C., March 18, 2019.

Witness, House Judiciary Committee, “Preventing Gun Violence,” Washington, D.C., February 6, 2019.

Presentation, “Campus Free Speech: Building a Culture of Free Expression,” Students for Liberty, Washington, D.C., January 19, 2019.

Presentation, “The Tragedy of Benedict Arnold,” Fall for the Book Festival, Fairfax, VA, October 10, 2018.

Presentation, “Benedict Arnold and Peggy Shippen: In Conversation with Park Service Interpreter,” Northshire Bookstore, Saratoga Spring, New York, October 6, 2018.

Speaker, “Guns & America National Reporting Collaborative” seminar, WAMU 88.5 American University Radio and NPR, Washington, D.C., October 2, 2018.

Presentation, “The Tragedy of Benedict Arnold,” Fraunces Tavern Historic Museum, New York City, September 17, 2018.

Presentation, “Women and Self-Defense: The Right to Be Armed,” Conservative Women’s Network, Heritage Foundation, Washington, D.C., June 27, 2018.

Presentation, “Historians and the Right to Be Armed: Case Study in Originalism,” Originalism Book Camp, Georgetown Law Center, May 19, 2018.

Presentation, “The Tragedy of *Benedict Arnold: An American Life*, Ridgefield, Connecticut, annual commemoration Revolutionary War battle fought at Ridgefield, May 2, 2018.

Appraisal of an article submitted to *Yale Law Journal*, April, 2018.

Presentation, “Heller after Ten Years,” Campbell University Law School, Raleigh, February 1-2, 2018.

Presentation, “Historians and the Right to Be Armed: Case Study of Originalism in Action,” Originalism Boot Camp, Georgetown Law Center, May 24, 2017.

Presentation, “The Right to Be Armed: The Common Law in England and America,” Aspen Institute Conference, “Firearms and the Common Law,” Washington, D.C., September 15, 2016.



Presentation, “Self Defense: Our Most Basic Right or a Threat to Public Safety?”  
Federalist Society Lawyer’s Group, Tallahassee, Florida, May 24, 2016.

Chair, Panel, “What Is the Relationship Between Originalism and Judicial Restraint?”  
Panel, James Madison conference, “Abraham Lincoln and Statesmanship: Reconstructing the Law of the Constitution,” May 16-17, 2016, Princeton, NJ.

Panelist, “Recent Developments in Gun Control,” Georgetown Law Center,  
Washington, D.C., March 31, 2016.

Presentation on Firearms and Violence, Memphis University School of Law,  
Memphis, Tennessee, February 23, 2016.

Witness, Senate Committee on Appropriations, Subcommittee on Commerce, Justice,  
Science and Related Agencies, to discuss President Obama’s announced plans to  
unilaterally take more gun control measures, January 20, 2016.

Presentation, “The Second Amendment and Self-Defence,” Federalist Society Lawyers’  
Chapter, Montgomery, Alabama, July 23, 2015.

Keynote Address, “The Second Amendment Right to Self Defence: The Core Freedom in  
the New Century,” *Firearms and Freedom: The Relevance of the Second Amendment in  
the Twenty-First Century*, The Eccles Center for American Studies, London, June 11,  
2015.

Panelist, Law Day, American Bar Association, The Leon Jaworski Public Program  
Series, “The Great Charter: What Makes Magna Carta Mythic?” Woodrow Wilson  
Center, Washington, D.C., April 30, 2015.

“Magna Carta in the United States and Great Britain,” First Triennial Baronial Order of  
Magna Carta – MC 800<sup>th</sup> Committee Magna Carta Symposium, April 18, 2015,  
Washington, D.C.

Presentation, “Lessons from Abroad: The Slippery Slope of Gun Control,” Annual  
National Firearms Law Seminar, NRA annual conference, Nashville, April 10, 2015.

Presentation, “Ground Zero for Gun Control: The District of Columbia and the New  
Politics of the Second Amendment,” American Society for Public Administration,  
Washington, D.C., March 18, 2015.

Presentation: “Magna Carta Entrenched: The Legacy in America,” Conversations on the  
Enduring Legacy of the Great Charter, Library of Congress program on 800<sup>th</sup> anniversary  
of Magna Carta, December 9, 2014.



Panelist, "Targeting the Truths About Gun Violence and Gun Control," Department of Criminal Justice, Bridgewater State University, Massachusetts, October 23, 2014.

Participant, "Legal History of Patents Workshop," Center for Protection of Intellectual Property, September 18, 2014.

Constitution Day speaker, "Fighting for Freedom: Blacks, Whites and the American Revolution," Marymount University, Arlington, VA, September 17, 2014.

Presentation, Annual Conference, Students for Concealed Carry on Campus, Washington, D.C., August 5, 2014.

Witness, Senate Judiciary Committee, "Violence against Women Act," July 30, 2014.

Colloquium, hosted by Rep. Steve Stockman, R. Texas, Capitol Hill, July 9, 2014.

Member, Advisory Board, Crime Prevention Research Center

Presentation, "Will Sticking to Our Guns Mean More Sandy Hooks?" Brandeis School of Law, University of Louisville, KY, April 2, 2014.

Advisory Panel, Library of Congress exhibit to commemorate Magna Carta, 800 years.

Panelist, Ninth Constitutional Law Conclave, Pennsylvania Bar Institute, Philadelphia, October 31, 2013.

Panelist, "Guns in America: Policy and Politics," Pizza & Perspectives, GMU University Life, GML School, September 11, 2013.

Faculty Presentation, "The Global Gun View: What Journalists Should Know About How Other Countries Treat Guns," Poynter Institute, Robert R. McCormick Foundation, Covering Guns: A McCormick Specialized Reporting Institute, Chicago, April 1-3, 2013.

Guest Lecture, "Sticking to Our Guns: Our Basic Right or a Public Peril," Philosophical Society of Washington, Cosmos Club, January 25, 2013.

Speaker, "Fire Power: Second Amendment Rights Panel," Vanderbilt Law School, October 12, 2012, Nashville, Tennessee.

"Self-Defence: Our Most Basic Right or a Danger to Public Safety? The Anglo-American Divide," Alpheus T. Mason Lecture Series on Constitutional Law and Political Thought: The Quest for Freedom," James Madison Program, Princeton University, September 28, 2012.

"New England Slaves and the American Revolution," Ninth Annual Fort Ticonderoga Seminar on the American Revolution, Ticonderoga, New York, September 22, 2012.

Presentation, “Litigating the Second Amendment,” State Solicitors General and Appellate Chiefs Conference, Washington, D.C., July 12, 2012.

Keynote speaker, “The Battle over Gun Control: Why History Is on Our Side,” World Forum on the Future of Sports Shooting Activities, Nuremberg, Germany, March 8, 2012.

“Law and Disorder: Self-Defense, the Second Amendment, and the Anglo-American Divide,” Tulane Law School, New Orleans, LA, April 9, 2012.

Guest speaker, “*Peter’s War* and the Role of Blacks in the American Revolution,” Georgia State University College of Law, Atlanta, GA, February 20, 2012.

Guest speaker, “The Right to Self Defence: The Impact of the Anglo-American Divide,” Duke University Law School, Durham, N.C., November 7, 2011.

Witness, U.S. House Judiciary Committee Subcommittee on Crime, on HR 822, Reciprocity for Concealed Carry Laws, September 13, 2011.

Presenter, CLE course, “Privileges or Immunities Clause and its relationship to the Supreme Court’s decision, *McDonald v. Chicago*, Capitol Hill, October 14, 2010.

Commentator, “Violence, Bondage and Freedom: Ideology and Policy in Early Modern British Atlantic,” Northeast Conference on British Studies, Burlington, Vermont, September 25, 2010.

Panelist, “Slavery in New England and the American Revolution,” The Historical Society, Washington, D.C., June 3, 2010.

Scholarly Advisor, The Student Exchange, “Should America’s Cities be able to ban handguns?” National Constitution Center, Philadelphia, May 27, 2010.

Panelist, “Rethinking the Second Amendment: The Chicago Gun Case and the Future of Gun Rights,” National Constitution Center, Philadelphia, May 5, 2010.

Panelist, “Legal Histories, British Histories, and Imperial Histories,” North American Conference on British Studies, Louisville, Kentucky, November 7, 2009.

Participant, Symposium, “Law and Judicial Duty,” Chicago, October 8-9, 2009.

Guest Speaker, “To *Heller* and Back: Is there a right to self-defense,” Hartford University program, “Civil Liberties in the 21<sup>st</sup> Century,” October 7, 2009.

Guest Speaker, “Slavery North and South during the American Revolution,” James Madison Fellowship Foundation, Georgetown University, July 14, 2009.

Speaker, *Peter's War*, Lexington Cary Library, May 21, 2009, Lexington, Massachusetts.

Speaker, "The Supreme Court and the Uses of History: District of Columbia versus Heller," UCLA symposium, "The Second Amendment and the Right to Bear Arms after D.C. v. Heller," January 23, 2009, Los Angeles, California.

Speaker, "Beyond the Founding Fathers," Bill of Rights Institute conference for teachers, October 25, 2008, Arlington, Virginia.

Speaker, "The *District of Columbia v. Heller* Opinion", University of Kansas School of Law, Lawrence, Kansas, October 14, 2008.

Presentation, "Freedom and the Rule of Law: An Ingenious Legacy," Freedom and the Rule of Law conference, Utah State University, Logan, Utah, September 15, 2008.

Presentation, "Is the Second Amendment an Individual Right?" The Independent Policy Forum, Washington, D.C., June 9, 2008.

Presentation, "The Right to Preserve and Protect? To Alter or Abolish?" conference, "Sovereignty and the right of Revolution" conference of the Duke working Group on Political Theory Spring Symposium, Duke University, Durham, NC, April 10-11, 2008.

Presentation, "Values and Characteristics of American Identity from the Founding Documents and Later," Bill of Rights Institute, Washington, D.C., April 4, 2008.

Speaker, Heller Case and Second Amendment, University of Maryland School of Law, March 26, 2008.

President, Northeast Conference on British Studies, 2007-2009

Program Director, Northeast Conference on British Studies, Halifax, Nova Scotia, October 12-13, 2007

Discussion Leader, Colloquium, "Liberty, Monarchy, and Regicide: The Trial and Execution of Charles I," Cleveland, Ohio, October 4-7, 2007.

Constitution Day Speaker, "Inalienable or Obsolete?" Tennessee Tech University, Cookeville, Tennessee, September 17, 2007.

Presentation, "The Historical Conditions of Free Institutions: Guidelines and Common Law Practice," at conference "The Free Society: Foundations and Challenges," Princeton University, May 14-15, 2007.

Guest speaker, “*Parker v. Washington, D.C.* and the Meaning of the Second Amendment,” Western New England College School of Law, Springfield, Massachusetts, April 25, 2007.

Presentation, “Slavery in the North: A Biography of Peter Nelson,” Washington, D.C. Area Legal History Roundtable, American University Washington College of Law, April 20, 2007.

Moderator, Panel on Virginia Ballot Question #1 Banning Same-Sex Marriage, George Mason School of Law, November 8, 2006.

Invited Participant, “Past as Prologue: The Origins and Future of the Free Society,” Earhart Foundation, Alexandria, Virginia, October 27-29, 2006.

Presentation, “Individual Rights and Self-Defence in England,” Symposium, The Second Amendment, George Mason University School of Law, October 7, 2006.

“Stepchild of the Revolution,” presentation, Carriage Museum, Long Island, New York, December 12, 2005.

Vice-President, Northeast Conference on British Studies, 2005 to 2007; Program Committee, North American Conference on British Studies, 2006.

Commentator, panel papers, “Reform and Authority in Seventeenth-Century England,” Northeast Conference on British Studies, Amherst, Massachusetts, October 22, 2005

Presentation at 2005 Firearms Law & the Second Amendment Symposium, George Mason University, Arlington Virginia, September 24, 2005.

“Clausewitz, *On War*: Teaching a Military Classic,” paper presented at annual conference, Association for Core Texts and Courses, Vancouver, B.C., April 9, 2005.

Reviewed book manuscript for University of Missouri press, April, 2005.

“What you didn’t learn about the Second Amendment in Con Law,” presentation, DePaul University School of Law, Chicago, Illinois, March 16, 2005.

Member, Board of Governors, The Historical Society.

“The Founders and the Debate over Judicial Review,” talk given to Boston College School of Law Legal History Roundtable, September 23, 2004.

Panel Member, National Endowment for the Humanities, September 21, 2004.

Invited Participant, “Sir Edward Coke on Liberty and the Rule of Law,” international colloquium, Philadelphia, September 9-12, 2004.

Member, book prize committee, New England Historical Association, 2004.

“Moral Strangers: Royalist Loyalty, Charles II and the Scots Invasion of 1651,” paper presented at conference, “Royalists and Royalism: Politics, Religion and Culture, 1640-1660,” Cambridge University, Cambridge, England, July 23-25, 2004. Also Chair, session 2, “The Formation of Royalism.”

Invited Participant, “Religious and Political Ideas of Liberty: The French Wars of Religion,” international colloquium, Oxford University, Oxford, England, July 15-18, 2004.

Reviewed book manuscript for Oxford University Press, June, 2004.

Invited participant, “Forum on American History, Culture and Ideas in the Colonial and Founding Period,” National Endowment for the Humanities, Washington, D.C., April 30, 2004.

Invited participant, “Workshop on Military and Diplomatic History,” Cambridge, Massachusetts, April 29, 2004.

“The Founders and the Debate over Judicial Review,” paper presented at James Madison Program, Princeton University, April 14, 2004.

Participant, Colloquium, “Constitutional Construction,” Seattle, Washington, April 1-4, 2004.

Participant, American Bar Association Dialogue, “Gun Laws and Policies,” May, 2003. Published as part of their education program in *Focus on Law Studies*, Spring 2003.

Panelist, “What Rights Does the Second Amendment Protect? A Scholarly Debate,” Social Law Library, Boston, April 11, 2003.

“Lessons of History: Firearms Regulation and the Reduction of Crime,” International Symposium, London, May 1-2, 2003.

Director, 2-day colloquium, “Terror and Liberty in the Early Modern Era,” Cambridge, April 3-6, 2003.

Commentary for *Talking History*, National Public Radio program sponsored by Organization of American Historians, January 31, 2003, aired May 19 and available to National Public Radio stations throughout the country.

Member, NEH Panel on Exemplary Education Projects, grants of up to \$250,000, January, 2003.

Guest Lecture, “The Roots of the ‘troubles’ in Ulster,” Irish Literature class, November 18, 2002.

Member, Civilian/Military Relations Working Group, MIT Center for International Studies, 2002-2003.

“The Novelty of James Madison’s Constitutionalism,” presented at American Political Science Association annual meeting, Boston, August 31, 2002.

“Disorder in the Court: Charles II’s Court in Exile,” presented at New England Historical Association Conference, Massachusetts Maritime College, April 20, 2002.

Invited Participant, “Unacceptable Weapons: The Politics and Consequences of Weapon Use Controversies,” MIT Security Studies Program, Watertown Arsenal, Mass., March 19-20, 2002.

Guest Lecture, “Guns, Violence and the Law in England,” Legal Studies Program, Univ. of Massachusetts, Amherst, November 27, 2001.

Commentator, “Contesting the Limits of Religion in 16<sup>th</sup> and 17<sup>th</sup> Century England,” Northeast Conference on British Studies, Worcester, Mass., November 17, 2001.

Invited Participant, conference, “Prison, Law and Liberty,” Hobart, Tasmania, October, 24-26, 2001.

Director, Colloquium for junior faculty, “War, Loyalty and Liberty,” Park City, Utah, July, 2001.

Panelist, “The Second Amendment: History, Evidence, and the Constitution,” Stanford Law School and Stanford Humanities Center, California, April 21, 2001.

Panel, “Legislation or Litigation: Congress, Courts and the Role of Lawyers,” Rhodes College, Memphis, Tennessee, February, 2001.

“The Constitutionalism of James Madison” at conference in honor of 250<sup>th</sup> anniversary of Madison’s birth, Cato Institute, Washington, D.C., March 1, 2001.

Member, History and Social Science Standards Revision Committee, grades K-12, Massachusetts Department of Education, 2000-2002.

“One Strike and You’re Out: The Impact of the Black Act on Violent Crime in England,” American Society for Legal History, Princeton, October, 2000.

“The English Revolution in World Perspective,” The Historical Society Conference, Boston, June 2000.

Commentator, “New Directions in Parliamentary History,” North American Conference On British Studies, Cambridge, MA, November, 1999.

Joint-director with Prof. Howard Nenner of Smith College, colloquium, “Regicide, Republic and Liberty: The Trial and Execution of Charles I,” Amherst, MA, January 28-31, 1999.

“The Missing Mob, or Why Charles I Was Not Rescued,” paper presented to North American Conference on British Studies, Cambridge, MA, November, 1999.

“The Vanishing Right of Self-Defence in England,” annual conference American Society of Criminology, Washington, D.C., November, 1998. Also chaired a panel.

Expert witness before US Senate Subcommittee on the Constitution, September 23, 1998.

Regularly review applications for NEH grants.

Director with Dr. John Morrill, Cambridge University, colloquium, “Liberty and the Struggle for Sovereignty in Seventeenth-Century England,” Southwold, England, October 30-November 2, 1997.

“The Link between Firearms and Violence: The English Example,” presented at American Society of Criminology, San Diego, November, 1997.

Chair, Panel, “Peripheries and Center in the Making of 17<sup>th</sup> and 18<sup>th</sup> Century Politics,” Northeast Conference on British Studies, Dartmouth, September, 1997.

“Private Arms: The Legacy and the Challenge,” guest speaker, Scottish European Association, Brussels, March, 1997.

“The Right to Be Armed: The Anglo-American Experience,” Free University of Brussels, March, 1997.

### **Service at the Law School**

I have served on the following committees:  
hiring committee, promotion and tenure committee, faculty affairs committee, faculty fund committee, the visiting scholars committee and twice hosted the D.C. Legal Roundtable at the law school. I am the faculty advisor to the Law Students for the Second Amendment.

### **COURSES TAUGHT AND PREPARED TO TEACH**

“War and Law,” a survey of warfare and the laws of war from the fourteenth century to the present including the changes in who fights, technology, sense of honor,

treatment of civilians and prisoners-of-war, impact on society.

“Comparative Constitutional Law”

“Constitutional History: The Founders’ Constitution”

“Common Law and American Rights”

“Unmanned Aerial Systems and the Law”

“Comparative Politics: The US and Great Britain”

“The Individual and the State: The Struggle for Sovereignty”

“The Second Amendment”

“The Origins and Development of Judicial Review”

“The Evolution of the State: Early Modern Europe”